

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

LEHMAN BROTHERS SECURITIES AND  
ERISA LITIGATION

This document applies to:

09 MD 2017 (LAK)

*In re Lehman Brothers Equity/Debt Sec. Litig.*  
08 Civ. 5523 (LAK)

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**DECLARATION OF DANIEL C. GIRARD  
IN SUPPORT OF THE STRUCTURED PRODUCT PLAINTIFFS'  
MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS  
REPRESENTATIVES AND CLASS COUNSEL**

I, Daniel C. Girard, declare as follows:

1. I am a partner of Girard Gibbs LLP and am admitted to practice *pro hac vice* in the Southern District of New York. I submit this declaration in support of the Structured Product Plaintiffs' Motion for Class Certification. If called to testify as to the contents of this declaration, I could and would competently do so.

2. In its January 9, 2009 Pretrial Order No. 1, the Court appointed me to serve as a member of the Executive Committee to represent the interests of the structured product plaintiffs. My firm has committed the resources necessary to evaluate and develop the claims of class members, assert those claims in consultation with lead counsel, respond to defendants' motion to dismiss, prepare the motion for class certification and begin preparation for trial. The attorneys assigned to this matter are thoroughly familiar with the relevant facts and law applicable to the claims of structured note investors.

3. To prepare for class certification and trial, we have served discovery requests; negotiated a "form of production" protocol with defendants; resolved a series of threshold disputes concerning the scope of defendants' search obligations and production of electronically stored information; negotiated agreements for production of documents in the possession of the named plaintiffs; obtained, reviewed and produced documents from all twenty plaintiffs (including Mr. Humble, whose motion to intervene is pending); and defended or assisted in defending seventeen of their depositions, with a few more that are scheduled shortly after the class certification motion is filed. We have served requests for production, interrogatories and requests for admission on UBS, and have reviewed thousands of pages of documents produced by UBS. We also participated in drafting the opposition to the defendants' motions to dismiss and preparing the amended complaints. We have coordinated our work with lead plaintiff's

counsel to ensure the effective representation of all class members and avoid duplication of effort and will continue to do so as the litigation proceeds.

4. Girard Gibbs is prepared to continue to devote the resources necessary to representing the interests of the proposed class. My firm has committed the necessary attorneys to the litigation, and will dedicate additional resources as necessary to take this case through pre-trial, trial and any appeals that may arise. In addition, my firm has the financial wherewithal to fund the case and absorb whatever expenses may arise, including expert expenses for the duration of the case, even if the case were to take several years to resolve. My firm has demonstrated its willingness to fund complex class action cases to a successful conclusion in the past, and will do so here.

5. The Girard Gibbs firm resume is attached as **Exhibit 1**.

6. A copy of the Third Amended Class Action Complaint is attached as **Exhibit 2**.

7. Copies of a representative sample of the structured product pricing supplements and free writing prospectuses are attached as **Exhibit 3**:

- 100% Principal Protection Callable Spread Daily Accrual Notes with Interest Linked to the Spread between the 30-year and the 2-year Swap Rates (CUSIP No. 52517PX63)
- 100% Principal Protection Notes Linked to a Global Index Basket (CUSIP No. 52522L889)
- 100% Principal Protection Absolute Return Barrier Notes Linked to the S&P 500 Index (CUSIP No. 52522L293)
- Return Optimization Securities with Partial Protection Notes Linked to the S&P 500® Index (52522L806)/ Return Optimization Securities with Partial Protection Notes Linked to the MSCI EM Index (CUSIP No. 52522L814)
- Autocallable Optimization Securities with Contingent Protection Linked to the S&P 500® Financials Index (CUSIP No. 52522L657)

8. Attached as **Exhibit 4** is a chart of the structured products that my firm has prepared to show the minor variations about principal protection in the pricing supplements for the structured products at issue in this case.

9. Attached as **Exhibit 5** is a chart my firm has prepared to show the allegedly false or misleading statements about Lehman that were in the offering documents for each offering.

10. A copy of UBS's responses to plaintiffs' first set of interrogatories is attached as **Exhibit 6**.

11. An excerpt of UBS's responses to plaintiffs' first set of requests for admission is attached as **Exhibit 7**.

12. Attached as **Exhibit 8** is a September 23, 2008 document from UBS entitled "Structured Products: Lehman Q&A."

13. A copy of Lehman Brothers' Registration Statement filed on May 2006 is attached as **Exhibit 9**.

14. A copy of Lehman Brothers' Prospectus Supplement for Medium-Term Notes, Series I, dated May 30, 2006 is attached as **Exhibit 10**.

15. Declarations of the plaintiffs in support of class certification are attached as **Exhibit 11**.

16. Attached as **Exhibit 12** is a copy of Judge Baer's February 2, 2012 order granting class certification in *Public Employees Retirement System of Miss. v. Goldman Sachs Group, Inc.*, 09 CIV 1110 (HB).

17. Attached as **Exhibit 13** is the amended certification of plaintiff Mohan Ananda.

18. Attached as **Exhibit 14** is the amended certification of plaintiff Lawrence Rose.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 3rd day of February, 2012 at San Francisco, California.

By: /s/ Daniel C. Girard  
Daniel C. Girard